



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 29, 1998

Ms. Mary Keller
Senior Associate Commissioner
Legal and Compliance Division
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR98-1336

Dear Ms. Keller:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 115871.

The Texas Department of Insurance (the "department") received a request for "the name, address and phone number of each and every person who has filed a complaint of any kind regarding the failure to pay a health benefit claim." You ask whether you must withhold the requested information under section 552.101 based on a right of privacy. We have considered the arguments you have made and have reviewed the sample documents that you have submitted.¹

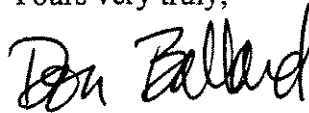
You ask whether you must withhold the requested identifying information based on the common-law right of privacy. You point to several rulings from this office where we found that the identities of insurance enrollees must be withheld from the insurance complaints received by the department. *See* Open Records Letter Nos. 98-0522 (1988), 98-0217 (1998), 97-2387 (1997), 97-2366 (1997), 97-2361 (1997); *cf.* Open Records Letter No. 97-1302 (1997). In each case, we stated that common-law privacy protects information about personal financial decisions and that identifying information about insurance enrollees

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

constituted private information.² Open Records Decision No. 600 (1992) at 9-12, 545 (1990). We believe that the instant request is distinguishable. As you indicate in your letter to this office, "the list of names will not give the requestor any information regarding which complainants are insured with a particular type of health insurance plan. Furthermore, the list will not give any information regarding the particular company with which the complainant is insured." It appears that the list of names will not even reveal whether the individual has insurance coverage. Additionally, the request here does not implicate the release of medical information of any kind. Consequently, we do not believe that the information, as requested in this instance, is protected by a right of privacy under section 552.101. The specifically requested information must be released. We suggest that any remaining, non-responsive information on the documents submitted to this office, including the "Address Id," and the "Complaint Number" fields, be redacted before release.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 115871

Enclosures: Submitted documents

²Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by common-law privacy and excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld from the public when (1) it is highly intimate or embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 (1992) at 1.

cc: Mr. Fred Lewis
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(w/o enclosures)